

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 95-1202-E - ORDER NO. 2000-819
OCTOBER 9, 2000

IN RE: Pacolet River Power Company, Inc.,)	ORDER GRANTING
)	CONTINUANCE AND
Complainant,)	OTHER RELIEF
)	
vs.)	
)	
Duke Power Company,)	
)	
Respondent.)	
)	

This matter comes before the Public Service Commission of South Carolina (the Commission) on the request of Pacolet River Power Company, Inc. (Pacolet) for a continuance of the hearing presently scheduled for October 26, 2000 in its complaint against Duke Power Company (Duke) until January or February, 2001. (This would also necessitate a continuance of the prefilng dates established by Order No. 2000-769.) The grounds for said request are that Pacolet has not been able to sell any power to Duke Power Company for the last several months due to the lack of water flow in the Pacolet River. Accordingly, Pacolet is in a tight financial situation, and the Company states a belief that it needs to keep its expenses as low as possible for the next two or three months.

Duke replied to the request by stating, among other things, that the Complaint ought to be dismissed without prejudice, in that, as long as the matter was open, Duke was incurring expenses of litigation in connection with it. Further, Duke states that if this Commission chose to simply continue the hearing, that it would request a witness list sixty days prior Pacolet's date for prefiling testimony, and that this Commission order Pacolet and Duke to engage in discussions related to previously filed discovery and exhibits.

We grant Pacolet's request to continue the hearing, and hold that the hearing shall be held in the offices of the Commission on **January 23, 2001 at 2:30 PM**. (We also grant a continuance of the prefiling dates listed in Order No. 2000-769.) We understand Duke's request for a dismissal without prejudice, but we believe that a continuance of the hearing is more in concert with the fact that the South Carolina Supreme Court, after agreement among the parties, remanded the matter back to this Commission for a trial de novo. We do not believe that dismissal of the matter, even without prejudice, is appropriate at this particular juncture, given the Court's mandate to us.

However, we do believe that Duke's additional requests have some merit, albeit with some modification. We hold that Pacolet shall serve on Duke and file with this Commission a final witness list thirty (30) days prior to the date that this Commission requires prefiled testimony to be filed by Pacolet. We believe that requiring the serving and filing of this list sixty (60) days prior to this date is burdensome for Pacolet, but we do think it is appropriate for said list to be served and filed thirty (30) days prior to prefiling. We hold that this witness list shall be served and filed on or before **November**

27, 2000. Further, we hold that Pacolet and Duke shall engage in discussions related to previously filed discovery and exhibits. We think that this request of Duke is also meritorious. Both of these requirements aid in the administrative processing of this case, in our opinion.

We also hold that new prefiling dates must be set, in accordance with our Order continuing the matter. Pursuant to 26 S.C. Regs. 103-869(C)(Supp.1999), the Commission hereby orders that twenty-five copies of the testimony and exhibits of the Complainant Pacolet River Power Company, Inc. shall be prefiled on or before **December 27, 2000**, and that twenty-five copies of the testimony and exhibits of the Respondent Duke Power Company and/or all other parties shall be pre-filed on or before **January 9, 2001**. (Material may be post-marked on these dates.) Also, any rebuttal testimony and exhibits shall be pre-filed on or before **January 16, 2001**, and any surrebuttal testimony and exhibits shall be pre-filed on or before **January 19, 2001**. (Material must be in the offices of the Commission and in the hands of the parties on these dates.) It should be noted that acceptance into the record of surrebuttal testimony and exhibits is subject to the discretion of the Commission. In addition, parties shall serve their pre-filed testimony and exhibits on all other parties of record as required by the Commission's Rules and Regulations. All parties are reminded that all witnesses must be present during any hearing in this matter at the call of the Chairman, or the Commission may decline to allow the witnesses' testimony to be read into the record of the proceeding, and/or may decline to allow the witnesses' exhibits to be entered into the evidence of the case.

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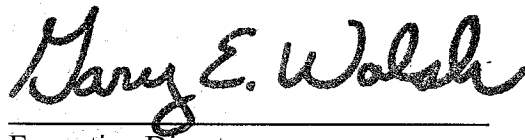
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Please take notice that any party requesting modification of this schedule must file a request for such modification with the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)